

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF PUERTO RICO

MINUTES OF PROCEEDINGS

Case Number: 98-07437-ESL Chapter: 11  
Debtor: ADVANCED CELLULAR SYSTEMS, INC.  
Bankruptcy Judge: ENRIQUE S. LAMOUTTE  
Courtroom Clerk: EVANGELINA MENDEZ  
Reporter / ECR: IRIS BORRES  
Hearing Room: 490  
Date / Time: THURSDAY, JUNE 01, 2000 10:00 am

- SUBJECT: 1) CHAPTER 11 Confirmation of Plan dated 04-30-99
- 2) CONSOLIDATED WITH 98-07438 ADVANCED PAGING SYSTEMS, INC.
- 3) MOTION by P.R. Telephonice Co. to compel discovery pursuant to Fed. R. Civ. P. 37(a) and opposition to debtor's request for protective order  
R/M #: 218/0
- 4) DEBTOR'S reply and reaffirmation of request for protective order  
R/M #: 222/0
- 5) OPPOSITION to approval of proposed chapter 11 plan and request for dismissal filed by P.R. Telephone Co.  
R/M #: 166/0
- 6) OPPOSITION to approval of proposed chapter 11 plan and request for dismissal filed by P.R. Telephone Co. and Celulalers Telefonica, Inc.  
R/M #: 166/0
- 7) DEBTORS' request for protective order
- 8) MOTION by PRTC to compel discovery and opposition to request for protective order  
R/M #: 218/0
- 9) DEBTORS' reply and reaffirmation of request for protective order  
R/M #: 218/0
- 10) DEBTORS' answer to PRTC's motion requesting status conference and request for continuance of confirmation hearing  
R/M #: 233/0
- 11) DEBTORS' answer to PRTC's opposition to approval of proposed plan and request for dismissal  
R/M #: 234/0

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF PUERTO RICO

MINUTES OF PROCEEDINGS

(con't) ...98-07437-ESL THURSDAY, JUNE 01, 2000 10:00 am

APPEARANCES:

CARMEN CONDE, ATTORNEY FOR DEBTOR  
MARIA DE LOS A. GONZALEZ, ATTORNEY FOR U.S. TRUSTEE  
FERNANDO VAN DERYDYS, ATTORNEY FOR P.R. TELEPHONE CO., CELULARES TELEFONICA  
RICARDO CASELLAS, ATTORNEY FOR P.R. TELEPHONE CO., CELULARES TELEFONICA  
MIGDALIA GUASP, ATTORNEY FOR BANCO POPULAR DE P.R.  
MARIANA NEGRON, ATTORNEY FOR CELLULAR ONE  
JOSE LAZARO PAOLI, ATTORNEY FOR DESARROLLADORA PILOTO, SE

PROCEEDINGS:

ORDER **E.O.D** JUN 26 2000

The Court makes the following findings: 1- the complaint filed by the debtor is non-core and has been remanded to the District Court, 2- the counterclaim by the PRTC is a collection of monies action against the debtor and is premised on the same facts as the proof of claim; 3- the counterclaim in the District Court is stayed by 11 USC 362(a), 4- the objection to claim is a core matter to be adjudicated by this Court. The Court will proceed with the objection to claim. The confirmation hearing is continued without a date pending a decision on the objection to claim. The Court requests a transcript in support of its findings and conclusions.

Regarding the discovery on the objection to claim the Court orders that debtor provide the evidence or the basis of its allegations of the fraud claims. A detailed exposition of the Court's ruling is in the attached transcript, pages 32-60.

The parties are granted 60 days to conclude discovery. A pretrial will be scheduled within ninety (90) days in a separate order.

SO ORDERED.

  
ENRIQUE S. LAMOUTTE  
U.S. Bankruptcy Judge

cc: Debtor -  
M. Lecaroz -  
C. Conde -  
M. Gonzalez (UST) -  
F. Van Derydys -  
M. Guasp -  
M. Negrón -  
R. Casellas -  
J. Lazaro  
7/0P

JUN 27 2000

1 related to the discovery to the other party, but our  
2 discovery, our motion to compel, our legitimate  
3 interrogatory which has not been answered by delaying  
4 tactics of the Debtor.

5 And I take it that's the sole issue of this  
6 Court. A motion to compel and the frivolous objections  
7 that have been lodged by the other side.

8 Your Honor, with that said I would defer to my  
9 brother counsel.

10 THE COURT: My question was, having decided  
11 that the objection to claim is a core matter. That I will  
12 entertain the counterclaim filed by Puerto Rico Telephone  
13 Company in the District Court action is stayed and since I  
14 have pending motions concerning discovery, I re-ask the  
15 question.

16 What is the status of discovery, on both sides?

17 MR. VAN DERDYS: For the record, Your Honor,  
18 discovery has been ongoing between the parties. It was...  
19 it was substantially advanced.

20 However, there was a transfer of the operations  
21 of Puerto Rico Telephone Company to another building.  
22 Meanwhile, we have the intervening Opinion and Order by the  
23 U.S. District Judge which was addressed today.

24 And we have developed or we have agreed at least.  
25 in the way of the examination of the evidence. I believe

1 that sister counsel just stated that it was arranged...

2 THE COURT: Is that... is that your position?  
3 Is that the status of discovery according to you?

4 MR. VAN DERDYS: There is pending... well,  
5 concerning the Debtor's discovery request to Puerto Rico  
6 Telephone Company.

7 THE COURT: Okay.

8 MR. VAN DERDYS: However, there is pending  
9 their response to our discovery request, Your Honor, which  
10 has been the subject of a couple of motions which are  
11 pending before the consideration of the Court, Your  
12 Honor.

13 THE COURT: Okay.

14 What is the Debtor's reply to that?

15 MS. CONDE: The position of the Debtor  
16 regarding the discovery filed by PRTC and/or Debtor's reply  
17 and reaffirmation and request for a protective order, the  
18 position of the Debtor is that the discovery commenced 14  
19 months after all this matter started, it's late.

20 But other than late what Puerto Rico Telephone  
21 Company is trying to do is to shift the burden of their  
22 proof of claim on the Debtor and requesting the Debtor to  
23 provide the information to sustain their claim.

24 THE COURT: Okay.

25 What information is being requested by Puerto

1 Rico Telephone Company from the Debtor that the Debtor has  
2 not produced?

3 MS. CONDE: I will address each one of the  
4 statements individually.

5 Okay. The Debtor... the Puerto Rico Telephone  
6 Company in its interrogatory, Interrogatory #7, requests  
7 Advanced to provide evidence or the basis of its  
8 allegations of fraud claims.

9 All that information is in the possession of  
10 Advanced... of Puerto Rico Telephone Company because are  
11 the fraud claims that were requested and filed since 1993  
12 to 1996.

13 THE COURT: Is that a claim that the Debtor  
14 made against or to the Puerto Rico Telephone Company?

15 MS. CONDE: We have not filed any claim  
16 against them because we are waiting to see through  
17 discovery...

18 THE COURT: You must have filed a claim  
19 against Puerto Rico Telephone Company for fraud claims to  
20 be deducted.

21 Otherwise, we would not have an issue before the  
22 Court. So, the Debtor must have submitted to Puerto Rico  
23 Telephone Company a request that fraud claims be reduced  
24 from the balance.

25 And I guess that is what is being requested.

1 What is it that you requested?

2 MS. CONDE: Okay.

3 Through...

4 THE COURT: So... because that establishes  
5 your basis and the timing and when you get the timing they  
6 can find perhaps the correlation as to what they did with  
7 it.

8 MS. CONDE: Okay.

9 THE COURT: Did or didn't do.

10 MR. VAN DERDYS: Your Honor, if I may for the  
11 record?

12 Your Honor may recall that at the last hearing  
13 before this Court on questioning by the Court itself the  
14 Debtor was unable to respond to certain amounts that were  
15 claimed by them.

16 And that's why...

17 THE COURT: So, why isn't that evidence that  
18 should be produced when your very basis to the objection to  
19 the proof of claim is that those items were not properly  
20 deducted from the balance indicated by Puerto Rico  
21 Telephone Company in the proof of claim?

22 MS. CONDE: It's not that we do not want to  
23 produce them. It's that they have them. They have them  
24 and throughout our discovery...

25 THE COURT: Okay.

1 My ruling is that they have to be produced.

2 MS. CONDE: We will produce them.

3 THE COURT: Because they are relevant. They  
4 go to the issue of your objection, not only as to amounts  
5 but also as to the time they were submitted that would  
6 place both parties in a position to determine how they were  
7 or were not credited.

8 MS. CONDE: Well, our objection was as just  
9 stated but if your ruling is that we have to produce  
10 them...

11 THE COURT: Yes.

12 MS. CONDE: ... we will produce them, copy of  
13 the same letters that they have.

14 Okay. Produce copy of all contracts, including  
15 attachment or supporting documents between Advanced and  
16 Puerto Rico Telephone.

17 THE COURT: Well, what is... is the issue of  
18 a contract... I mean, what does it have to do with the  
19 proof of claim, the contract between the parties?

20 MR. VAN DERDYS: Your Honor, those are... the  
21 contracts between the parties?

22 THE COURT: Yes.

23 MR. VAN DERDYS: The basis of the contractual  
24 relationship, the contracts...

25 THE COURT: Is there any difference between

1 the set of contracts that you have and the set of contracts  
2 that the Debtor's referring to?

3 MR. VAN DERDYS: I...

4 THE COURT: I guess if you entered a contract  
5 both parties would have a copy of it, right?

6 Or are you... or is someone alleging that you are  
7 going by different sets of contracts and that the contract  
8 that one is basing the argument on is different from the  
9 other?

10 MR. VAN DERDYS: And we want to ascertain  
11 whether we are dealing with the same documents and we  
12 need... we feel it is relevant.

13 THE COURT: Is there any issue as to the  
14 contractual relation between the parties as it relates to  
15 the proof of claim?

16 MR. VAN DERDYS: No.

17 THE COURT: Well, then that to me is not  
18 relevant to the issue of the proof of claim. That may be  
19 relevant to the District Court action but not to the proof  
20 of claim.

21 So, that doesn't have to be produced unless you  
22 can establish that you... that either the Debtor or Puerto  
23 Rico Telephone Company is relying on a different  
24 contractual basis than the one alleged in the proof of  
25 claim.



1 And I don't see that in... in the objection to  
2 claim nor in the replies I have seen.

3 That may be a basis for the District Court but  
4 not for the objection to claim.

5 Next.

6 MS. CONDE: Interrogatory #15, provide copies  
7 of all fraud and non fraud claims submitted to Advanced.

8 This is the same as Interrogatory #7.

9 THE COURT: Well, they have to be produced.

10 MS. CONDE: Okay.

11 It's... #16, provide copy of all documents by and  
12 between Advanced Cellular and Puerto Rico Telephone related  
13 to alleged fraud claims.

14 It's the same thing.

15 THE COURT: Well, that... I guess it expands  
16 on the first, on the prior one. If there is any document  
17 supplementing the fraud claim then they have to be  
18 submitted.

19 MS. CONDE: With each fraud claim a copy of  
20 the telephone numbers which allege fraud were...

21 THE COURT: It may very well be that if you  
22 comply with the prior one then there is no... there are no  
23 further documents but if there are you have to produce  
24 them.

25 Because a fraud claim may have been supplemented

1 subsequently through other documents. If that was the  
2 case you have to produce it. If it was not the case then  
3 the document doesn't exist.

4 MS. CONDE: Okay.

5 Interrogatory #11, all fraud claims submitted by  
6 Advanced to its clients.

7 What do the clients have to do in here? We...  
8 we provided Puerto Rico Telephone...

9 THE COURT: What is that? I am lost?

10 MR. VAN DERDYS: It's a reference, Your  
11 Honor.

12 MR. CASELLAS: Ricardo Casellas.

13 That request is essential to dispute the  
14 objection to the proof of claim. Because if the claim of  
15 the Debtor to the Puerto Rico Telephone Company differed  
16 from the claim that the client had with the Debtor then I  
17 think there's a substantial basis to say that their  
18 allegation is false.

19 THE COURT: Well, let me ask a question.

20 Are the fraud claims which the Debtor submits to  
21 Puerto Rico Telephone Company to be deducted from the  
22 balance based upon fraud claims that the clients have  
23 submitted to the Debtor, Advanced Cellular?

24 MS. CONDE: That's true and that's why with  
25 the fraud claim we used to attach copy of the telephone

1 number and the claimant.

2 THE COURT: Well, then... then we're arguing  
3 now something which it's menial.

4 MS. CONDE: Your Honor...

5 THE COURT: Because if... if your fraud claim  
6 includes the basis for the fraud claim which is the claim  
7 by your client, when what are we arguing about?

8 MS. CONDE: But the thing is that what they  
9 want is our correspondence with the client.

10 THE COURT: Well, you have...

11 MS. CONDE: Additional information that we do  
12 not want...

13 THE COURT: You have to submit the basis upon  
14 which you submitted the fraud claim to Puerto Rico  
15 Telephone Company which has to be the fraud claim that the  
16 client submitted to you.

17 MR. CASELLAS: Exactly.

18 And that...

19 THE COURT: All business correspondence  
20 between Advanced Cellular and your clients is not relevant  
21 to the issue.

22 MS. CONDE: And that's our point.

23 MR. CASELLAS: Well, unless...

24 THE COURT: Only as to the fraud claim.

25 MS. CONDE: That's our point.

1 MR. CASELLAS: Unless it relates to a credit  
2 or a deduction of a claim.

3 THE COURT: Only as to the fraud claims.

4 MS. CONDE: As to the fraud claims.

5 Your Honor...

6 THE COURT: Or fraud claims or any credit you  
7 are requesting.

8 MS. CONDE: Oh, yes Your Honor.

9 But, Your Honor, I want to make a parenthesis at  
10 this moment because it has been a problem throughout all  
11 this process.

12 I never know who's litigating this case. Okay.  
13 There's always a problem because I start litigating with  
14 Brother Van Derdys and...

15 THE COURT: Both.

16 MR. VAN DERYDYS: I beg your pardon...

17 THE COURT: They're co-counsels, same law  
18 firm.

19 MS. CONDE: Your Honor, but it has been so  
20 discussed throughout all the process...

21 MR. CASELLAS: I move to strike. That's  
22 inflammatory.

23 THE COURT: Well...

24 MR. CASELLAS: It's irrelevant to what we're  
25 arguing on the merits. It's improper and I take an

1 exception to that.

2 MS. CONDE: And it's very difficult every  
3 time Brother Van Derdys starts with an argument you  
4 introduce yourself and everything is different.

5 THE COURT: Well, I... I... I note your  
6 problem. However, I don't see it at this time as an  
7 impediment to the proceeding to go on.

8 However, it would be much easier, obviously, if  
9 one addresses. But I guess this litigation has more than  
10 one part.

11 So, what I would require is that one speaks at a  
12 time, not both at the same time.

13 MR. CASELLAS: Very well, Your Honor.

14 MS. CONDE: Number... Interrogatory #12,  
15 copies... copies of all non fraud claims submitted. I'm  
16 sorry, Your Honor.

17 THE COURT: Okay.

18 MS. CONDE: But it's my point.

19 THE COURT: Okay.

20 MS. CONDE: Every time he starts talking...

21 (Short pause is taken.)

22 MS. CONDE: As to this moment, Your Honor,  
23 credits claimed by the Debtor are fraud claims but if there  
24 are other non fraud claims we will submit the evidence,  
25 okay?

1 So, we will say yes to Interrogatory #12.

2 THE COURT: Okay.

3 MS. CONDE: Interrogatory #14, provide copies  
4 of all documents showing the application by Advanced to its  
5 clients.

6 THE COURT: What is that?

7 MS. CONDE: Explain, what do you want?

8 MR. VAN DERDYS: All the credits. All the  
9 credits. The application of the credits by Advanced, of  
10 the credits that were provided by Puerto Rico Telephone  
11 Company to Advanced and the benefit to their clients.

12 The ultimate use of it. How they were applied  
13 to the fraud claim of their client.

14 MS. CONDE: That has nothing to do with our  
15 claim to Puerto Rico Telephone Company, Your Honor.

16 MR. VAN DERDYS: We believe it is relevant,  
17 Your Honor, if...

18 MS. CONDE: It imposes on the Debtor...

19 THE COURT: Okay.

20 Let me... let me ask you a question. Because it  
21 all depends on how... how this business is transacted, what  
22 happens.

23 Let's say that I as your client I submit to you a  
24 fraud claim. Look, someone has used the telephone and I  
25 didn't use it. Someone used my number.

1 So, I submit to you that claim, that fraud claim,  
2 and since your provider, whatever it may be called, is  
3 Puerto Rico Telephone Company you, in turn, submit that...  
4 that fraud claim to Puerto Rico Telephone Company.

5 I guess for Advanced Cellular, for you as an  
6 intermediary, to suffer a loss to claimant you must have  
7 credited an amount to the client because if you didn't  
8 credit the amount to the client then there was no loss..

9 So, I guess what it's being requested is to see  
10 if Advanced Cellular did, in fact, suffer a loss based upon  
11 the fraud claim.

12 And for that then a credit should have been given  
13 by Advanced Cellular to the client for the loss to be  
14 suffered.

15 Is that... is that...

16 MS. CONDE: No, I do not agree with Your  
17 Honor.

18 THE COURT: No?

19 MS. CONDE: I'm sorry, but the issue is they  
20 are claiming...

21 THE COURT: So, if I pay then you can still  
22 claim it?

23 MS. CONDE: The issue right now is as  
24 follows:

25 We have claimed fraud. Frauds were claimed to

1 us, okay.

2 THE COURT: Is your client here?

3 MS. CONDE: Yes.

4 THE COURT: Can you check that with him?

5 Not that I doubt you but it's that...

6 MS. CONDE: I will, Your Honor.

7 THE COURT: Okay.

8 Double check that with your client.

9 (Short pause is taken.)

10 MS. CONDE: You are correct in your  
11 statement.

12 THE COURT: Okay.

13 MS. CONDE: But my position is that that's  
14 not the issue.

15 Okay. My position is...

16 THE COURT: Okay.

17 MS. CONDE: ... not the fact that it works the  
18 way you stated because it does.

19 THE COURT: Okay.

20 MS. CONDE: My position is that that's not  
21 the issue here. They are trying to say okay I didn't give  
22 you a credit on your fraud claim but you didn't give it  
23 back to anybody so nobody lost.

24 MR. VAN DERDYS: Well, Your Honor, we object.  
25 to that statement.



1 MS. CONDE: And that's not the position.  
2 What we are discussing here is we make a claim to you and  
3 did you credit it or not.

4 THE COURT: Okay.

5 MS. CONDE: That's a two party relationship.

6 THE COURT: Okay.

7 MS. CONDE: A third party has nothing to do  
8 with it.

9 THE COURT: I understand your position, your  
10 legal position.

11 But based upon the broadness that discovery  
12 should have I'm going to grant their request. That  
13 doesn't mean that if we hold an Evidentiary Hearing I would  
14 admit that piece of evidence as relevant unless the  
15 relevancy is established.

16 MS. CONDE: But the fact is... I understand  
17 your decision but the fact is, Your Honor, that it is very  
18 burdensome to the Debtor now to gather all that additional  
19 information...

20 THE COURT: This is burdensome all over.

21 MS. CONDE: I know.

22 MR. VAN DERYDYS: That is correct, Your Honor.

23 MS. CONDE: I know, Your Honor, and these  
24 delays are burdensome.

25 THE COURT: And I know we're talking about

1 hundred... thousands and thousands of documents but...

2 MR. VAN DERDYS: Puerto Rico Telephone  
3 Company has already spent substantially...

4 THE COURT: Look, if you reach a ballpark  
5 decision that's your decision. If I have to see it in  
6 detail then the detail has to be presented.

7 But I guess that's a judgment decision that the  
8 parties make. I guess if you in your minds and your  
9 preliminary discovery determine, let's say, maybe the  
10 differences are one thousand dollars I guess one thousand  
11 dollars isn't worth it...

12 MS. CONDE: Of course.

13 THE COURT: ... to go through all this expense  
14 and effort, but that I don't know.

15 MS. CONDE: Interrogatory #16, same thing.  
16 Provide copies of all documents by and between Advanced  
17 Cellular and Puerto Rico Telephone that refer or relate to  
18 alleged fraud claims.

19 Same thing.

20 THE COURT: Yeah.

21 And same ruling.

22 MS. CONDE: Okay.

23 Now, all these were related to one of our  
24 objections, related to burdensome.

25 Now, our second objection is that other documents

1 are irrelevant and impertinent.

2 THE COURT: How many fraud claims are we...  
3 in terms of number how many are we talking about, ballpark  
4 figure?

5 MS. CONDE: How many claims?

6 THE COURT: Fraud claims in the period  
7 encompassed, 1, 5, 10, 500, 5,000?

8 MS. CONDE: Thousands, Your Honor.

9 And fraud claims was such a big issue with Puerto  
10 Rico Telephone Company that it went out of the hands of  
11 Puerto Rico Telephone Company.

12 THE COURT: Okay.

13 MS. CONDE: And it's...

14 THE COURT: That's fine.

15 MR. VAN DERDYS: We object to that statement.

16 THE COURT: I just wanted to know what the  
17 breadth of the discovery was.

18 MS. CONDE: How many were they? How many  
19 claims? Many many claims.

20 THE COURT: Many thousands.

21 Next?

22 MS. CONDE: Interrogatory #8, describe in  
23 specific detail and chronology the methodology used by  
24 Advanced Cellular in processing fraud claims.

25 Interrogatory #9...

1 THE COURT: At this time I'm going to... if  
2 you're objecting to that interrogatory at this time I'm  
3 going to grant it, without prejudice to your establishing  
4 what is the relevance of that.

5 MR. VAN DERDYS: Your Honor, we have to  
6 determine whether the Debtor had any... any... any... could  
7 have taken any affirmative action towards avoiding any...  
8 towards solving that problem, that specific problem.

9 THE COURT: What is there in the contract  
10 that requires that?

11 MR. VAN DERDYS: At this point in time I  
12 don't have the contract here, Your Honor.

13 THE COURT: I'm going to deny it without  
14 prejudice.

15 MR. VAN DERDYS: Okay.

16 THE COURT: If you establish that that piece  
17 of evidence would go to a contractual breach of Advanced  
18 Cellular that's a different issue.

19 MR. VAN DERDYS: Okay.

20 So, we reserve the right to...

21 THE COURT: And I'm not saying that that may  
22 be... well, I'm denying it without prejudice.

23 MS. CONDE: Interrogatory #9, provide copies  
24 of all corporate income tax returns of Advanced from 1993  
25 to 1998.

1 THE COURT: Not relevant to the objection to  
2 claim.

3 MS. CONDE: Interrogatory #10, provide copies  
4 of all certified unaudited financial statements of Advanced  
5 covering 1993 through 1998.

6 MR. VAN DERDYS: If I may, Your Honor?  
7 Fernando Van Derdys.

8 THE COURT: Yes.

9 MR. VAN DERDYS: We think that is extremely  
10 relevant. It shows the application or mention of the  
11 fraudulent claims...

12 THE COURT: Okay.

13 Did you claim as a deduction fraud claims unpaid  
14 by Puerto Rico Telephone Company?

15 MS. CONDE: If...

16 THE COURT: When I say you, did the  
17 corporation claim...

18 MS. CONDE: Not specifically.

19 THE COURT: ... as a deduction, as a tax  
20 deduction, fraud claims submitted but not paid as it  
21 regards to Puerto Rico Telephone Company?

22 MS. CONDE: I will have to check the tax  
23 returns.

24 THE COURT: Well, if you did, if the Debtor  
25 did, then you have to supply them.

1 MS. CONDE: We're in #10.

2 MR. CASELLAS: Your Honor, with all due  
3 respect?

4 Counsel just mentioned that she would have to  
5 check the tax return which was Request #9. Now we're in  
6 Request #10.

7 MS. CONDE: That's why I stated...

8 MR. CASELLAS: We submit... we submit that  
9 not only the audited financial statements would be relevant  
10 to show whether they actually credited or deducted as a  
11 claim, which could differ from the claim they actually  
12 submitted to PRTC or to the claim... or to the objection  
13 that they're now presenting.

14 That's why it's relevant. But also the tax  
15 returns should be produced, which is Request #9. Counsel  
16 needs to look at the tax returns, she just said...

17 THE COURT: But why?

18 Why is a tax return relevant to the claim?

19 MR. CASELLAS: The tax return is relevant to  
20 the objection to the claim.

21 THE COURT: To the fraud claim?

22 MR. CASELLAS: Because if the Debtor took a  
23 deduction for fraud claims...

24 THE COURT: But did they?

25 MR. CASELLAS: I would have to look at the

1 returns to see that.

2 THE COURT: Well, my ruling is if they did  
3 they have to produce them. If they didn't they don't have  
4 to produce them.

5 MS. CONDE: Thank you, Your Honor.

6 We will check those.

7 MR. CASELLAS: Well, Your Honor, how do we  
8 know... how do we know that they did or didn't if we don't  
9 look at the returns?

10 It's relevant evidence or it could lead to the  
11 discovery of relevant evidence.

12 THE COURT: Well, that's true.

13 MR. CASELLAS: We have to look at the  
14 documents to see if they didn't take a deduction. If they  
15 didn't take a deduction then that may be admissible  
16 evidence on what they're contesting here.

17 So, we request that...

18 MS. CONDE: Your Honor,...

19 MR. CASELLAS: We request that...

20 MS. CONDE: Your Honor...

21 MR. CASELLAS: I haven't finished, counsel.

22 MS. CONDE: If we did not take the deduction  
23 we will submit to this Honorable Court a copy of the  
24 documents sealed.

25 MR. CASELLAS: And that's...

1 THE COURT: Why sealed? I mean, why are  
2 income tax returns...

3 MS. CONDE: Because, Your Honor, what they  
4 are trying to do through this discovery is obtain the  
5 information they want in the discovery for the District  
6 Court.

7 They are going over the scope of the contested  
8 matter and...

9 THE COURT: I'm going to reconsider.

10 You would have to submit the income tax returns  
11 and any statements in which the Debtor may have or could  
12 have claimed as a deduction...

13 MR. CASELLAS: Very well.

14 THE COURT: ... the fraud claims.

15 MR. CASELLAS: That would take care of  
16 Request #9 and 10.

17 MS. CONDE: Your Honor, I believe this would  
18 go both ways, for the Debtor also.

19 THE COURT: What do you mean both ways?

20 MS. CONDE: This kind of information from  
21 PRTC to the Debtor.

22 MR. CASELLAS: Your Honor...

23 MS. CONDE: It goes both ways.

24 MR. CASELLAS: Your Honor, I'm lost.

25 We're talking about their failure to comply with



1 this interrogatory, which was served months ago and now she  
2 wants to amend our interrogatory to do discovery.

3 THE COURT: No... well, I'm just going to  
4 rule on what is presently before the Court.

5 MR. CASELLAS: Right.

6 THE COURT: And I don't have that discovery  
7 before me.

8 What is the next item?

9 MS. CONDE: Copies of all corporate minutes,  
10 memoranda relating to meetings by Advanced and the board of  
11 directors and meetings of shareholders held during the  
12 years '93 to '98.

13 MR. CASELLAS: What's the Request, counsel,  
14 number for the record, please? What request are you  
15 referring to?

16 MS. CONDE: #17.

17 MR. CASELLAS: If I may, Your Honor, we  
18 were... to save time.

19 We were talking about Request 10, the audited  
20 statement which this Court granted. We already discussed  
21 certain ones, from 10 to 16.

22 So, I take it that counsel has no objection to  
23 Request 11 through 16, so we could save time, and I take it  
24 that there will be an order to compel, to provide that.

25 So, now we're addressing 17?

1 THE COURT: No, no, no, no.

2 That's not what has happened. So, I guess we  
3 better go one by one.

4 MR. CASELLAS: Okay.

5 THE COURT: Why is there any need for  
6 corporate minutes?

7 MR. CASELLAS: Well, again, the records of  
8 the corporation and the board of directors discussing what  
9 transpired in that five year period concerning the  
10 application of fraud claims could be relevant to what  
11 they're alleging here.

12 THE COURT: That request is denied.

13 Next?

14 MS. CONDE: Describe in detail and in every  
15 method or procedure utilized by Advanced Cellular to  
16 control and minimize fraud claims from its clients during  
17 1993 to '98.

18 That goes directly to Interrogatory #8 which  
19 objection was granted.

20 MR. CASELLAS: That's not the case, Your  
21 Honor.

22 That relates to the... to the order to compel the  
23 documents which form the basis for the fraud claims.

24 18 has to do with an interrogatory to describe  
25 the procedure that they adopted to minimize fraud claims

1 which relates to the contractual issue of the obligation of  
2 the Debtor to prevent fraud.

3 THE COURT: I'm going to... to... to grant  
4 the objection without prejudice to that interrogatory,  
5 without prejudice to establishing that the Debtor in  
6 violation of any contractual term was negligent in its  
7 methodology of preventing fraud claims.

8 And that they breached that... that duty or  
9 responsibility then they should not be entitled to claim a  
10 fraud claim.

11 MS. CONDE: Interrogatory #19, provide copies  
12 in a chronological order and by account number of each and  
13 every letter, communication and documents sent by Advanced  
14 to its clients during 1993 to 1998.

15 THE COURT: Objection granted, overbroad.

16 MR. CASELLAS: Your Honor,...

17 THE COURT: And I know I have granted...

18 MR. CASELLAS: ... but that was not the  
19 request.

20 Counsel is misquoting or misstating the request.

21 THE COURT: What was the request?

22 MR. CASELLAS: It was not overbroad.

23 It said... 19 said, provide copies in  
24 chronological order and by account number of each and every  
25 letter, communication or document sent by Advanced Cellular

1 to its clients during the period of 1993 through 1998,  
2 inclusive, regarding efforts undertaken by Advanced  
3 Cellular to control or minimize fraud claims on cellular  
4 service or to the application of credits.

5 MS. CONDE: Inclusive.

6 MR. CASELLAS: It couldn't be narrower than  
7 that.

8 We're not interested in communications...

9 THE COURT: Granted but limited to the fraud  
10 claims.

11 MR. CASELLAS: Or the application...

12 THE COURT: Or the application of fraud  
13 claims or credits.

14 MR. CASELLAS: Very well.

15 That's all we're looking for, Your Honor.

16 MS. CONDE: The statement says inclusive, not  
17 limited.

18 MR. CASELLAS: Counsel, I...

19 THE COURT: My ruling stands.

20 Continue.

21 MS. CONDE: Those are our objections, Your  
22 Honor.

23 THE COURT: Any other discovery issue which  
24 is pending?

25 MR. CASELLAS: Well, Your Honor...

1 THE COURT: Time for compliance?

2 MS. CONDE: Your Honor, the other issue is  
3 our continuance of discovery.

4 MR. CASELLAS: Well, I haven't finished, Your  
5 Honor.

6 THE COURT: Well, discovery has to continue.  
7 I mean, that's understood.

8 MR. CASELLAS: There are other  
9 interrogatories which have not been objected to and just  
10 for the clarity...

11 THE COURT: I guess if they haven't been  
12 objected to they have to be answered.

13 MR. CASELLAS: Very well.

14 THE COURT: So, time to answer? And time to  
15 conclude discovery on your part, on Debtor's part, too?

16 MR. CASELLAS: Well, in that respect when are  
17 we going to get the interrogatory answers and documents  
18 from the other side?

19 THE COURT: Well, I'm going to ask the same  
20 question from both parties.

21 When each party is going to submit the discovery  
22 which is pending?

23 MR. CASELLAS: Well, as far... as far as the  
24 PRTC is concerned, and counsel just said it at the very  
25 beginning, that discovery is proceeding fine and it's at a

1 very advanced stage.

2 How much time was pending?

3 THE COURT: Well, in terms of hours, days, or  
4 months or years, what is fine?

5 MR. CASELLAS: Sixty days to finish  
6 discovery? Or what do you think...

7 MS. CONDE: On the part of the Debtor, Your  
8 Honor, there are some documents we requested brother  
9 counsel to... about two or three weeks ago.

10 As soon as we have those documents we can then  
11 say how fast we can go, what we have missing. Because we  
12 have already ended our first phase of discovery, except  
13 that copy of the documents we requested were not all  
14 provided.

15 Once I have those documents I believe we can  
16 expedite all this matter, but I believe 60 days should be  
17 enough for both parties.

18 THE COURT: Okay.

19 Sixty days to conclude the discovery concerning  
20 the objection to claim. And I will schedule a Pre-Trial  
21 more or less in 90 days.

22 MS. CONDE: Your Honor, can we have the date  
23 when brother counsel will provide us a copy of the  
24 documents we have pending?

25 THE COURT: Look, this... you coordinate this

1 amongst yourselves. If you have any problem then you move  
2 the Court.

3 MS. CONDE: Thank you.

4 THE COURT: I'm not going to run your  
5 calendars or mine now at this time.

6 Any other matter which needs to be addressed?

7 MR. CASELLAS: Nothing further at this time.

8 THE COURT: And I request a transcript in  
9 support of the minute orders.

10 You're excused.

11 (Whereupon, the hearing in the above-entitled  
12 matter was terminated.)  
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